

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 022477/2024

DATE: 28-01-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

(3) REVISED.

DATE 28/1/2025

SIGNATURE 

10 In the matter between

THAPELO LAWRENCE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

WEIDEMAN, AJ:

20 This claim arose as result of an accident which occurred on
or about the 4th of April 2023 at or near the intersection of
Catherine Street and West Street in Sandton.

The plaintiff alleges that he was a passenger in a vehicle
which was involved in an accident after the driver had lost
control thereof. No evidence was presented to gainsay this
version which is not inherently improbable. The plaintiff is

therefore successful on the aspect of negligence and the defendant is liable for 100 percent of such damages as the plaintiff may be able to substantiate.

The defendant has made no election in respect of general damages and as such, the claim for general damages is to be separated out and postponed *sine die*.

10 The claim for future hospital, medical and ancillary expenses shall be dealt with by way of an un - apportioned undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act.

When it comes to the aspect of loss of income, the factual foundation of the plaintiff's claim is rather limited. There is some evidence that he was employed, albeit informally and on a part time basis, as a labourer assistant in the installation of solar panels. The suggestion is that each installation would take three to seven days, but there is no
20 indication as to how often these installations took place or how many were done during a month or a year.

An assumption that he worked 12 days per month at R300 per day, translates to an annual income of R43 200 and which is approximately 20% less than the theoretical figure

postulated by the plaintiff's industrial psychologist.

The uncertainty surrounding the employment is a factor which must be considered in coming to a fair and reasonable result in this matter. In addition to the uncertainty surrounding employment, the plaintiff had a pre-existing condition, epilepsy, which, based on the medical evidence, was exacerbated by the head injury sustained in the accident and which might have influenced his ability to
10 continue working on roof spaces or other raised areas for the installation of solar panels.

The plaintiff's history further reveals periods of unemployment with no proof of any other pre-accident income. The question of the retirement age was discussed in Court and no convincing reason could be given as to why retirement in this instance should be 65 years.

What is confirmed by the medico-legal reports filed of
20 record, is that the plaintiff is factually unemployable after the accident. Based on the figures contained in the actuarial report it seems that the amount in respect of accrued loss of income is R65 929. If a standard 5% deduction is made from this amount, then the plaintiff is successful with a claim for past loss of income in the sum of

28-01-2025

R62 632.

Only the plaintiff's claim for future loss of earnings remains. The calculation on CaseLines at 08-185 provides for the plaintiff to have worked until 2052 - the year in which the plaintiff turns 65. If the figure of R935 948 is used as the point of departure and a 40 percent contingency deduction is applied to make provision for all the various factors mentioned earlier, then the net amount in respect of future
10 loss of income is R561 568.80.

My order is thus as follows:

1. The plaintiff's application in terms of rule 38(2) is granted.
2. The application in terms of rule 33(4) for the separation and postponement of general damages *sine die* is granted.
3. The defendant shall be liable for 100% of such damages as the plaintiff may be able to
20 substantiate.
4. The plaintiff's claim for future hospital, medical and ancillary expenses is to be dealt with by the tendering of an unlimited Undertaking in terms of section 17(4)(a).
5. The defendant shall pay the plaintiff the sum of

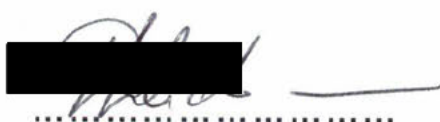
R62 632 in respect of past loss of income.

6. The defendant shall pay the plaintiff an amount of R561 568.80 in respect of future loss of income.

7. To the extent that the plaintiff has been substantially successful, there is no reason why costs should not follow the result and the plaintiff is entitled to his party-and-party costs as taxed or agreed. Counsel's fees to be on Scale B.

10

That is my order.

A handwritten signature in dark ink, appearing to be 'AJ Weideman', is written over a black rectangular redaction box. Below the signature is a dotted line.

WEIDEMAN, AJ
JUDGE OF THE HIGH COURT
DATE: 28/1/2025